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May 4, 1993

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0415

VIA HAND DELIVERY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20036

RE: MM Docket No. 93-93
BPET-900904KF
Bakersfield, California

Dear Ms. Searcy:

Transmitted herewith on behalf of Valley Public Television, Inc., are an original and six (6) copies of its "Supplement to Motion to Enlarge Issues" in connection with its above-referenced application.

Should any question arise concerning this matter, please communicate with this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

Patricia A. Mahoney
Patricia A. Mahoney
Counsel for
Valley Public Television, Inc.

PAM/dlr
Enclosure

cc: The Honorable Arthur I. Steinberg (w/enc.)*
Norman Goldstein, Esquire (w/enc.)*
Thomas Schattenfield, Esquire (w/enc.)*

*By Hand

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

MAY - 4 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of

COMMUNITY TV OF
SOUTHERN CALIFORNIA

VALLEY PUBLIC TELEVISION, INC.

For Construction Permit
For a New TV Station on
Channel *39
Bakersfield, CA

MM Docket No. 93-93

BPET-881012KE

BPET-900904KE

Directed to: The Honorable Arthur I. Steinberg
Administrative Law Judge

SUPPLEMENT TO
MOTION TO ENLARGE ISSUES

Valley Public Television, Inc. (Valley), by its attorneys,
hereby respectfully submits this Supplement to the Motion to
Enlarge Issues timely filed by Valley on May 3, 1993. In support
whereof, the following is submitted:

On May 3, 1993, Valley filed a Motion to Enlarge Issues in
this proceeding. Included as Attachments 5-7 thereto were
facsimile copies of the executed Declarations of Joanne Sanoian
(5), David Price, III (6), and William E. Rice (7), with the
representation that originals would be filed upon receipt. The
originals have now been received and are attached hereto. It is
respectfully requested that they be associated with the Motion to
Enlarge as filed on May 3, 1993.

Also attached hereto is an opinion letter of Samuel C. Palmer, III, of the law firm of Thomas, Snell, Jamison, Russell and Asperger. This letter was prepared on May 3, 1993, but was not received in time to be included in the Motion to Enlarge Issues, and no reference to the letter was made in Valley's Motion. It is respectfully requested that the attached opinion letter of Samuel C. Palmer be associated with the Valley Motion to Enlarge Issues and included in Attachment 5 to that Motion. Attachment 5 currently consists of the Declaration and opinion letter of Joanne Sanoian, which was submitted and discussed in the Motion to Enlarge Issues. Mr. Palmer's letter is submitted as a second legal opinion offered as additional support for the Motion wherever Ms. Sanoian's opinion letter was cited.

On this date, a copy of Mr. Palmer's opinion letter is being served (within this Supplement) by hand to all parties. Counsel for Community TV of Southern California (CTSC) should receive CTSC's service copy of the Supplement and Mr. Palmer's letter on or before the date on which he receives CTSC's service copy of the Motion to Enlarge Issues (which was served on May 3, 1993, by first class mail to CTSC). Thus, CTSC has not been prejudiced or otherwise placed at any disadvantage by receiving Mr. Palmer's opinion letter one day after the Motion was filed.

WHEREFORE, for the foregoing reasons, it is respectfully requested that the above-referenced Motion to Enlarge Issues be supplemented to include the attached materials.

Respectfully submitted,

VALLEY PUBLIC TELEVISION, INC.

By: Patricia A. Mahoney
Richard Hildreth
Vincent J. Curtis, Jr.
Patricia A. Mahoney

Its Attorneys

FLETCHER, HEALD & HILDRETH
1300 North 17th Street
11th Floor
Arlington, Virginia 22209
(703) 812-0400

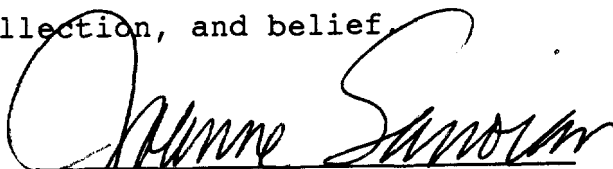
May 4, 1993

ATTACHMENT 5

DECLARATION

I, Joanne Sanoian, do hereby declare under penalty of perjury that the following is true and correct:

I prepared the attached letter to Richard Hildreth, dated April 30, 1993. The information therein is true and correct to the best of my knowledge, recollection, and belief.


Joanne Sanoian

Signed and Dated this 3rd
day of May, 1993

LOOMIS, SANOIAN & GARLAND
ATTORNEYS AT LAW
22 VAN NESS AVENUE
SUITE 300
FRESNO, CALIFORNIA 93721
TELEPHONE (209) 233-6152
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JOHN E. LOOMIS
JOANNE SANOIAN
JOHN F. GARLAND

April 30, 1993

FEDERAL EXPRESS

Richard Hildreth
Fletcher, Heald & Hildreth
11th Floor
1300 North 17th Street
Rosslyn, Virginia 22209

Re: Community Television of Southern California (CTSC)

Dear Mr. Hildreth:

This letter is sent in response to your request for a legal opinion regarding CTSC's Articles of Incorporation pertaining to its operation of a broadcast station in Bakersfield, California.

I have reviewed Article FOURTH of CTSC's Articles of Incorporation which limits CTSC to "the coordination of educational, cultural, governmental and other interests in the greater Los Angeles area" in order to service "one or more

Richard Hildreth
April 30, 1993
Page Two

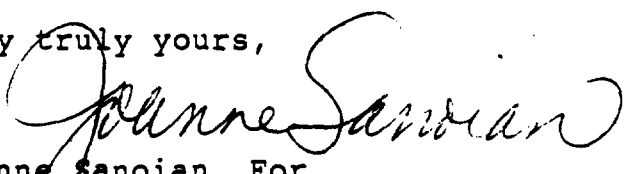
not be a defined part of California but that entire part lying south of the latitude dividing the state exactly in half, which line would fall in the vicinity of San Jose, a city located just to the south of San Francisco Bay. Bakersfield is approximately 180 miles south of San Jose and Los Angeles is approximately 320 miles south of San Jose and is approximately 140 miles south of Bakersfield. Based upon that definition, Southern California would also include Fresno which actually lies in the heart of the Central Valley. There is no legal or other support for an interpretation that "Southern California" is the geographical southern half of the state. Rather, Southern California is a term describing a definite geographic area.

In the Articles of Incorporation, the term "greater Los Angeles area" defines the geographic area within which CTSC can operate and therefore is a limit on the breadth of the definition of the term "Southern California" used in CTSC's charter.

It is therefore our opinion that the Articles of Incorporation of CTSC limit it to educational broadcast facilities in an area south of the Tehachapi Mountains and west of the Mojave Desert, an area defined as "Southern California" and in which Los Angeles is located. That area does not include Bakersfield.

It is my understanding that this opinion will be used in connection with CTSC's pending application before the Federal Communications Commission.

Very truly yours,


Joanne Sanoian, For
LOOMIS, SANOIAN & GARLAND

JS:mg

ATTACHMENT 6

DECLARATION

I, David Price III, do hereby declare under penalty of perjury that the following is true and correct:

I prepared the attached letter to Richard Hildreth, dated April 30, 1993. The information therein is true and correct to the best of my knowledge, recollection, and belief.


David Price III

Signed and dated this 3RD
day of MAY, 1993

3609 Lancer Drive
Bakersfield, CA 93306
April 30, 1993

MR. RICHARD HILDRETH, Esquire
Fletcher, Heald and Hildreth
Attorneys at Law
11th Floor
1300 North 17th Street
Rosslyn, VA 22209

Dear Mr. Hildreth:

It has come to my attention that you are interested in the identification of some of the key distinguishing factors that serve to differentiate Los Angeles and Southern California from the greater Bakersfield area. Some rather significant differences do exist.

I am currently the Assistant Director of the Kern County Resource Management Agency and am the former Assistant Planning Director for the County. In both of these capacities, I have had the opportunity to note the various socio-economic characteristics of both our local residents as well as those of adjoining population centers in Southern California.

Our population is not as racially or ethnically diverse as in Southern California and the area of Los Angeles, leading to a higher concentration among a fewer number of minority groups. Our labor force does not share the high percentage of manufacturing jobs as exists in Los Angeles, but has a higher percentage of workers involved in agricultural and mineral field production activities. Our median income figures do not mirror those of Los Angeles, nor does our index of living costs. Our median priced home, for example, is less than half the cost of the Los Angeles median priced home. The result of all this is a different attitude about life, the land and our values.

A major differentiating factor is the profound sense of separation represented by the mountain range dividing the San Joaquin Valley from Los Angeles and Southern California. The Tehachapi Mountains serve as geographic divider, creating a physical as well as a psychological barrier regarding matters related to Los Angeles and Southern California.

In a very real sense, many of our residents believe that the mountains are helping to hold back the tide of negative connotations that Los Angeles, and to some extent, Southern California represents. Central Valley people cherish the more rural, smaller town, localized cultural emphasis that is found in our San Joaquin Valley communities and what has been characterized as the "valley way of life". The homogeneity and commonality of interests and values we share with other valley communities stands in stark contrast to what many here believe is the Los Angeles way of life and that of much of what is defined as "Southern California".

MR. RICHARD HILDRETH, Esquire

April 30, 1993

Page 2

The Central Valley in which Bakersfield is located is not "Southern California" as that term is used. Los Angeles definitely is, but, as I noted above, the Tehachapi Mountain range divides the "Central Valley" area from that area identified as "Southern California". Both areas have definite identifying characteristics and are quite dissimilar in character, population and socio-economic matters.

Very truly yours,

A handwritten signature in cursive script, appearing to read "David Price III".

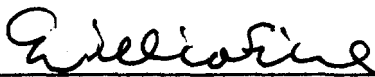
DAVID PRICE III

ATTACHMENT 7

DECLARATION

I, William E. Rice, do hereby declare under penalty of perjury
that the following is true and correct:

I prepared the attached letter to Richard Hildreth, dated April 30, 1993.
The information therein is true and correct to the best of my knowledge,
recollection, and belief.



William E. Rice

Signed this 3rd day of MAY, 1993

CALIFORNIA STATE UNIVERSITY • FRESNO

SCHOOL OF BUSINESS AND ADMINISTRATIVE SCIENCES
Department of Marketing and Logistics



5245 North Backer Avenue
Fresno, California 93740-0007
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April 30, 1993

Richard Hildreth
Fletcher, Heald and Hildreth
Attorneys at Law - 11th Floor
1300 N. 17th St.
Rosslyn, VA 22209

Dear Mr. Hildreth:

I am a market researcher and full Professor of Marketing. I have performed or have been actively involved in over 400 research projects in the State of California. Some of these research projects have been performed in or included information collected from the Los Angeles basin, Southern California and western Kern County. In comparing these areas, I have found significant differences in the demographic, psychographic, buvergraphic, and geographic

page 2 - Hildreth letter

The "regional identity" is also supported by geographical and socio-economic factors. Bakersfield and Kern County are not considered to be in "Southern California" but in "Central California and more specifically, the Central Valley of California. On the other hand, Southern California, which includes Los Angeles and its environs, has its own separate and distinct geographical identification. Research involving regional studies so differentiate these two areas as well as other defined areas such as the "Central Coast" and the "San Francisco Bay" area.

I have not found that the term "Southern California", as regularly used, refers to the southern half of the state but to the part of California south of Bakersfield and the Techachapi Mountains and between the desert and the Pacific Ocean.

Sincerely,

A handwritten signature in cursive script that reads "William E. Rice". The signature is fluid and written in dark ink.

Dr. William E. Rice
Professor of Marketing

WER:gmk

DECLARATION OF SAMUEL C. PALMER, III

THOMAS, SNELL, JAMISON, RUSSELL AND ASPERGER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

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ROGER E. FIPPS
SAMUEL C. PALMER, III
JAMES O. DEMSEY
ROBERT J. TYLER
JOHN G. MENGSHOL
GERALD D. VINNARD
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May 3, 1993

Richard Hildreth, Esq.
Fletcher, Heald & Hildreth
Attorneys at Law
Post Office Box 33847
Washington, DC 20033-0847

Re: Community Television of Southern California

Dear Mr. Hildreth:

I, Samuel C. Palmer III, do hereby declare under penalty of perjury that the following letter is true and correct.

I, Samuel C. Palmer III, am a senior shareholder in the law firm of Thomas, Snell, Jamison, Russell and Asperger, P.C. I am licensed to practice and do practice law before and in all of the courts in the State of California, the United States Supreme Court, Court of Appeal, Ninth Judicial District and the Eastern, Central and Southern United States District Courts of California. I was admitted to practice in January, 1959 and have continuously practiced law in California. I have specialized in business litigation for most of my career.

During my career, I have served on a number of Boards of Directors of charitable and non-profit corporations including, St. Ann Foundation in Los Angeles, the National Sleep Foundation, Big Brothers/Big Sisters of Fresno, Poverello House of Fresno, the Lively Arts Foundation and most recently the Crime Stoppers of Fresno County. I have served as a member of the Board of Directors and am the Immediate Past President of the Fresno County Bar Association. I am also the founder of the Fresno County Bar Association Foundation.

Richard Hildreth, Esq.
May 3, 1993
Page 2

I have been asked by management of KVPT, Channel 18 and of Valley Public Television, Inc. to review the Articles of Incorporation of the Community Television of Southern California which were filed with the Secretary of State on April 10, 1962. This corporation was formed under the General Non-Profit Corporation of the State of California.

The purpose of this letter is to express my opinion of whether or not the Community Television of Southern California as organized under its Articles of Incorporation is authorized to acquire a television facility and license in Bakersfield, Kern County, California.

Article Third of its Articles prohibits gain or profit to members, as it should. However, this same Article restricts the acquisition or use of any funds at any time in contravention of the stated purposes described in Article Fourth. Article Third specifically directs that all of the corporate assets including all funds and contributions shall be devoted to the limited and specific purposes.

In Article Fourth, these stated purposes are clearly set forth. The corporation was formed for the purpose of the development, financing and operation of non-commercial educational, television facilities in Southern California. This use of the facilities is curtailed and limited to the specific coordination of educational, cultural, governmental and other interests only within the greater Los Angeles area. There is other enabling language included in Article Fourth but it is clear that it exists only to implement the stated specific and primary purposes.

All operating facilities must be situated in Southern California. We have searched our data base containing all reported California court cases and find there is no juridical definition of "Southern California." It is common knowledge that "Central California" begins somewhere in the Tehachapi range north of Gorman and somewhat south of the Grapevine in the Fort Tejon area. This perception is accepted by the United States Office of Courts and by Congress. The Federal District Court system for the San Joaquin Valley is included within the Eastern District of California. It begins at the Kern county border and extends up through Sacramento and indeed up to the eastern and some northern portions of the State. All of the Federal judicial business in Kern county is done in the Fresno division of the

Richard Hildreth, Esq.
May 3, 1993
Page 3

United States District Court, Eastern District of California.
To the contrary, Los Angeles County is amalgamated into
Orange, Riverside, San Bernadino, Ventura and Santa Barbara
Counties into its own district called the Central District.

Because Article Fourth limits the educational
television facilities and license to "the coordination of
educational, cultural, governmental and other interests in
the greater Los Angeles area", it is my opinion that all
programming must involve interests only of the viewers and
financial supporters within the greater Los Angeles area, and
not those interests of Kern County. If the corporation
chooses to program otherwise, it would be required to amend
its Articles of Incorporation and to change its stated
purposes to do so.

Furthermore, it is my opinion that it would be an
unlawful and an ultravires act for the Community Television
of Southern California to use donated or contributed "funds
or property" to acquire a license or facility for Kern
county. The financial supporters of this corporation have
presumably relied on this public document and filing for the
past 31 years on the representations stated in Article Third
and Article Fourth of the Articles of this Corporation which
again set forth the limited uses described above. It is my
opinion that an expenditure of any of these donated funds to
acquire a facility and license outside of Los Angeles and to
develop programming for Central California including Kern
County would be a breach of the stated purposes for which the
funds have been solicited and obtained. I believe that there
is a likelihood and risk that enforcement proceedings could
be brought to prevent the solicitation and usage of corporate
funds and assets for the planned but unauthorized purposes.

Because this is a non-profit corporation and for
public broadcasting, it is my opinion that the Articles of
Incorporation should be construed narrowly.

In conclusion, it is my opinion that the Articles
of Incorporation of Community Television of Southern
California are clearly restrictive and precludes this
corporation from acting in the manner in which it seeks to
act.

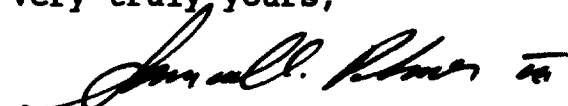
I believe that any other interpretation other than
this set forth would be unreasonable.

THOMAS, SNELL, JAMISON, RUSSELL AND ASPERGER

Richard Hildreth, Esq.
May 3, 1993
Page 4

I have prepared this written letter to Richard Hildreth, dated May 3, 1993. The information therein is true and correct to the best of my knowledge, recollection, and belief.

Very truly yours,


Samuel C. Palmer III

CERTIFICATE OF SERVICE

I, Diane L. Roper, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that I have caused true copies of the foregoing "Supplement to Motion to Enlarge Issues" to be delivered by hand this this 4th day of May, 1993, to the following:

Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
Room 228
2000 L Street, N.W.
Washington, D.C. 20554

Norman Goldstein, Esquire
Mass Media Bureau
Federal Communications Commission
Room 7212
2025 M Street, N.W.
Washington, D.C. 20554

Thomas Schattenfield, Esquire
Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Suite #600
Washington, D.C. 20036-5339


Diane L. Roper